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25 September 2003

COMMISSIONER FOR PATENTS
P.O. Box 1450
Technology Center 3617
Attn: Mr. Basinger
Alexandria, VA 22313-1450

Dear Sir:

I received a Notice of Abandonment, dated 23 September 2003, for application no. 10/060,142 today with surprise and concern. This is the first communication that I have received from Mr. Basinger since submitting the changes that he requested in his first Office action. In trying to be patient with the pace and work load of the USPTO, I have not troubled Mr. Basinger with calls concerning this application. After receiving this notification, I checked the USPTO website to discern the appropriate section of the MPEP concerning this situation, and I found the following passage:

"2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (See MPEP 711.03(c) II). No fee required.

Where an applicant contends that the original Notice of Allowance and Issue Fee Due was never received. If adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows: Mail: Commissioner For Patents, P.O. Box 1450, Technology Center XXXX, Alexandria, VA 22313-1450 (Mark attention of a particular office or individual)"

This letter will be faxed to 703-305-8755 or 703-305-4372, hand carried to Art Section 3617, supplied to Mr. Basinger as a courtesy copy, and submitted through normal channels for a time date stamp.

A search of the file jacket has been made for the Office action of 14 February 2003 with no success. I hereby swear and affirm that it has not been received. This may have been due to a major snow storm starting here on 14 February 2003 which accumulated up to twenty-four inches of snow disrupting normal mail delivery. No record of a docket can be sent with this letter because as an individual inventor no docket is made. Is there a requirement to keep a docket for an individual inventor? Because the Office action of 14 February 2003 was not received, I am asking for a remailing of the Office action.

Mr. Basinger, I will be calling you to follow up on this matter. If you are in a position to remedy this error in document delivery by remailing and starting a new Office action date, please withdraw the holding of abandonment and remail the 14 February 2003 Office action and start a new Office action date. If this is not within your authority, please notify me what steps are necessary to attain a proper remedy for this situation (telephone number 301-870-8708 or johnmelius@comcast.net). Thank you for your efforts.

Respectively Yours,

John Melius

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GROUP 3600